

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

Fasteners For Retail, Inc.,

Plaintiff,

v.

Trion Industries, Inc.,

Defendant.

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) **(Pending in the Northern**
) **District of Illinois, Eastern**
) **Division, Civil Action**
) **No. 1:18-cv-00861)**
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**PLAINTIFF FASTENERS FOR RETAIL, INC.’S MOTION TO COMPEL
TRION INDUSTRIES, INC. TO PRODUCE DOCUMENTS AND THINGS
IN RESPONSE TO FASTENERS FOR RETAIL, INC.’S SUBPOENA**

TO: ABOVE-NAMED DEFENDANT AND ITS COUNSEL OF RECORD:

PLEASE TAKE NOTICE THAT Plaintiff Fasteners For Retail, Inc. (“FFR”) moves the Court pursuant to Federal Rule of Civil Procedure 45(d)(2)(B)(i) for an order to compel Trion Industries, Inc. (“Trion”) to produce documents and things in response to FFR’s subpoena (“Motion”). This Motion is supported by the papers submitted in connection with this Motion and is submitted for a decision on brief. FFR requests the Court issue an order (1) requiring Trion to produce six physical samples comprising the components of each of the Extruded Modular System and Zip Track System; (2) requiring Trion to produce documents, including assembly instructions, sufficient to demonstrate the features of each of the Extruded Modular

System and Zip Track System and their assembly; (3) requiring Trion to produce U.S. sales information of each of the Extruded Modular System and Zip Track System from 2011 to the present, broken down on a monthly, per-unit basis, including document sufficient to demonstrate the price of each unit sold or offered for sale, (4) requiring Trion to reasonably cooperate with FFR to validate all documents and things produced, including by providing a representative for deposition as required by FFR's deposition subpoena if necessary, and (5) granting any other relief the Court deems just.

Pursuant to Local Rule 26.3, counsel for FFR and counsel for Trion met and conferred multiple times in an attempt to reach a mutually agreeable production procedure and to secure production of all requested documents and things, including most recently a letter sent from FFR's counsel to Trion's counsel on November 8, 2021 and a response from Trion's counsel on November 15, 2021 confirming that the parties are at an impasse. Counsel for FFR hereby certifies that it made a good faith attempt to resolve this issue but was unable to reach agreement with Trion regarding a reasonable production of documents and things sought by the subpoena.

FFR hereby requests that the Court grant its Motion and compel Trion to produce the requested documents and things pursuant to FFR's subpoena by November 23, 2021, and provide a representative for a deposition on November 29 or November 30, 2021.

Dated: November 16, 2021

Respectfully submitted,

/s/ Daniel T. Brier

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*Counsel for Plaintiff Fasteners For
Retail, Inc.*

CERTIFICATE OF NONCONCURRENCE

Counsel for movant has sought the concurrence of Defendant Trion's counsel regarding this motion, and Trion is opposed to the relief sought.

/s/ Daniel T. Brier
Counsel for Fasteners For Retail, Inc.

CERTIFICATE OF SERVICE

This is to certify that, on the 16th day of November, 2021, I electronically submitted the foregoing document with the Clerk of the U.S. District Court, Middle District of Pennsylvania, using the electronic case filing system of the Court. I hereby certify that I have served all counsel of record electronically as authorized by Federal Rule of Civil Procedure 5(b)(2)-(3), including Stephen S. Zimowski (szimowski@ssjr.com).

/s/ Daniel T. Brier
Attorney for Fasteners For Retail, Inc.